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SUPREME COURT OF THE UNITED STATES.

No. 111.

THE CLAIMANTS AND OWNERS OF THE STEAMER LOUISIANA, APPELLANTS,

vs.

ISAAC FISHER AND OTHERS.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE DISTRICT OF MARYLAND.

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THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in November, in the year of our Lord one thousand eight hundred and fifty-six. Present the honorable William F. Giles, Judge of Maryland district; William M. Addison, esquire, Attorney; John W. Watkins, esq., Marshal; Thomas Spicer, Clerk.

Among other were the following proceedings, to wit:

THE CLAIMANTS OF THE STEAMER LOUISIANA
vs.
ISAAC FISHER & others.

Cross Appeals.

ISAAC FISHER & others
vs.
THE STEAMER LOUISIANA.

Be it remembered, that heretofore, to wit, on the twelfth day of July, in the year of our Lord one thousand eight hundred and fifty-six, the parties aforesaid, by their proctors aforesaid, filed in the circuit court here a record from the district court of the United States in and for the Maryland district, in the words and of the tenor following, to wit:

District Court Record.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a district court of the United States in and for the Maryland district, begun and held at the city of Baltimore, on the first Tuesday in June, in the year of our Lord one thousand eight hundred and fifty-six. Present the honorable William F. Giles, judge of Maryland district; William M. Addison, esquire, attorney; John W. Watkins, esq., marshal; Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

ISAAC PHILLIPS and others
vs.
THE STEAMER LOUISIANA.

Libel filed 29 February, 1856.

Warrant of Arrest.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

[SEAL.] To the Marshal for the Maryland district, greeting:

We command you, that you attach, seize, take and safely keep the Steamer Louisiana, her tackle, apparel and furniture, boats, engine and machinery, to answer the libel of Isaac Fisher of New Jersey,

Herbert M. Fenton of Pennsylvania, and George D. McCoy of New Jersey, owners of the schooner George D. Fisher, in a cause of collision, civil and maritime; and how you shall execute this precept you make known to us in our district court for the district aforesaid, at the United States court-room in the city of Baltimore, on the first Tuesday of March next, and have you then and there this writ.

Witness the honorable William F. Giles, judge of our said district court, the first Tuesday in December, in the year of our Lord one thousand eight hundred and fifty-five.

W. P.—S. T. W.

Issued 29 Feb'y, 1856.

THO. SPICER, *Clk. Dis't Ct.*

Marshal's Return.

Atta'd in custody, Feb'y 29th, 1856.

J. W. WATKINS,
U. S. Marshal.

Claim.

To the honorable William F. Giles, Judge of the District Court of the United States for the district of Maryland.

And now comes the Baltimore Steam-packet Company, by Moore N. Falls, their agent, and claim the Steamer Louisiana, her tackle, apparel and furniture, against a libel which has been filed in this court by Isaac Fisher, Jonathan Campbell, Robert Fisher and Robert M. Fenton. And the said claimants allege, that they are the true, lawful and sole owners of the said steamer Louisiana and her tackle, &c., and they claim the same to be their property.

And they will pray, &c.

M. N. FALLS,
Agent Balto. Steam-packet Co.

Subscribed and sworn to this 14th day of March, 1856, before me.

JOHN HANAN,
U. S. Com. for Md.

Stipulation.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

Be it remembered, that on this twentieth day of March, in the year of our Lord one thousand eight hundred and fifty-six, before me, John Hanan, a commissioner appointed by the circuit court of the United States for the fourth circuit in and for the Maryland district, pursuant to the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," appear Moore N. Falls and Samuel Shoemaker, of the district aforesaid, in their proper persons, and submit themselves to the jurisdiction of the district court of the United States for the district of Maryland, and consent to bind themselvse, and do acknowledge them-

selves, their heirs, executors and administrators, to be bound in the sum of twelve thousand dollars, for the claimants of the steamer Louisiana, her tackle, apparel and furniture, unto Isaac Fisher, Jonathan Campbell, Lawrence Fisher and Robert M. Fenton, to perform and fulfil the final order and decree of the said district court; and in case of an appeal from such final order and decree of the said district court, then the final order and decree of the circuit court of the United States for the fourth circuit in and for the Maryland district; and in case of an appeal from such final order and decree of the said circuit court, then the final order and decree of the Supreme Court of the United States, in a certain cause now depending in the said district court, wherein the said Isaac Fisher, Jonathan Campbell, Lawrence Fisher and Robert M. Fenton are libellants, and the claimants of the said steamer Louisiana are respondents; and unless they so do, they severally consent that execution shall issue against them, their heirs, executors and administrators, their goods, chattels, lands and tenements, wheresoever found or to be found.

Acknowledged before

JOHN HANAN,
U. S. Comr.

Libel—Filed 29 *Feb'y*, 1856.

To the honorable William F. Giles, Judge of the District Court of the United States in and for the district of Maryland, sitting in admiralty:

The libel of Isaac Fisher, Jonathan Campbell, and Lawrence Fisher of New Jersey, Herbert M. Fenton of Pennsylvania, and George D. McCoy of New Jersey, owners of the schooner George D. Fisher, whereof the said Herbert M. Fenton was likewise master, against the steamer Louisiana, her tackle, apparel and furniture, and against all persons intervening for their interest therein, in a cause of collision, civil and maritime.

These libellants, for and on the said behalf, articulately propounding, say:

First. That the said schooner George D. Fisher being commanded as aforesaid, by the said Herbert M. Fenton, and on her passage from Philadelphia in Pennsylvania, to Norfolk in Virginia, by the way of the Chesapeake and Delaware canal, on the night of Thursday the 27th day of December, 1855, between ten and eleven o'clock, in the Chesapeake bay, within the admiralty and maritime jurisdiction of this honorable court, was run into and sunk in deep water, by the said steamer Louisiana, so that she became totally wrecked and lost.

Second. That the said collision took place about three miles to the northward of the Rappahannock light-boat, which at the time thereof bore about south.

Third. That the said steamer Louisiana at the time of said collision was bound up the bay on her trip from Norfolk to Baltimore, the said schooner being bound down as aforesaid.

Fourth. That before and at the time of the said collision, it was a moonlight night, and the said schooner might have been readily seen by those on board the said steamer at a considerable distance, sufficient to have afforded abundant time for the said steamer to pass without any danger whatever to the schooner, and to regulate her speed and course conveniently and readily for such purpose.

Fifth. That the said steamer, when first seen from on board the schooner, which was about ten minutes after ten o'clock, was apparently from eight to ten miles distant, S., steering up the bay, the schooner making a southwest course against the wind, which was blowing about south by east; the schooner was making about four knots the hour, and the steamer as she drew near appeared to be going at the rate of from nine to twelve. When the said steamer had approached within a half mile or a mile of the schooner, she appeared, judging from her lights, to be hauling to the westward, with the apparent intention of crossing the schooner's bows; very shortly afterwards, she seemed to be again hauling to the eastward, as if to drop under the schooner's stern, but the said last-mentioned movement was made too late, the distance between the vessels being too inconsiderable to allow it to be of any avail. When within a very short distance of the schooner, the engine of the steamer was stopped, but too late to affect her headway in time, so that she struck the said schooner on her larboard quarter, between the main rigging and the house, sinking her almost immediately with her cargo. The said schooner, at the time of the *cosion*, continued upon her southwest course, the steamer apparently heading between north-northeast and northeast.

Sixth. That the said schooner was in all respects well appointed and manned, and her officers and crew careful and capable. The said collision was caused by no negligence, default, mismanagement or want of skill on the part of the officers or crew of said schooner, but was altogether the result of the carelessness, neglect or unskilfulness of those having the control of said steamer, and to her being without any sufficient and careful helmsman or look-out as by law required.

Seventh. That the said schooner was then and there worth the sum of four thousand dollars, and these libellants were damaged to that amount by the destruction as aforesaid, as well as otherwise injured, to a large amount, by the loss of the voyage she was performing when so destroyed.

Eighth. That the libellant, Herbert M. Fenton, the master of said schooner, had on board of her at the time of said collision, goods and money to the value and amount of two hundred and fifty dollars, or thereabouts, which were lost by the collision and sinking of said schooner as herein before set forth.

Ninth. That the steamer Louisiana is now lying within the district aforesaid, and the admiralty and maritime jurisdiction of this honorable court.

Tenth. That these libellants are damaged as aforesaid, to the amount of six thousand dollars, and that all and singular the premises are true.

Wherefore these libellants pray process against the said steamer Louisiana, her tackle, apparel and furniture, boats, engine and machinery, and that this honorable court will pronounce for the damages aforesaid, with costs, and give to these libellants such other and further relief as their case may justify and require, and the court may lawfully grant. And they will pray, &c.

WILLIAM PRICE,
S. T. WALLIS,
Proctors for Libellants.

Answer—Filed 28 *March*, 1856.

The answer of the Baltimore Steam-packet Company, sole owners of the steamer Louisiana, (intervening in *in* this behalf as such owners,) to the libel and complaint of Isaac Fisher and others, in the District Court of the United States for the district of Maryland, exhibited.

This respondent, in answer to said libel, and to the several and respective articles thereof, answering, says as follows:

First. In answer to the first article of said libel, this respondent says, that it admits that at or about the time in that behalf in said article stated, the schooner George D. Fisher, in said article mentioned, and the said steamer Louisiana, came into collision in the Chesapeake bay, and within the jurisdiction of this honorable court, and that in consequence of said collision, the said schooner sunk in deep water and was lost.

Second. In answer to the second article, this respondent states that said collision took place between three and four miles above the Rappahannock light-boat, but denies that the same was to the northward of said boat, or that the said boat at the time of said collision bore about south.

Third. In answer to the third article, this respondent admits the same to be true.

Fourth. In answer to the fourth article, this respondent states, that it is true that it was a moonlight night, but that it was very cloudy in the eastern part of the horizon; toward the east where the moon had risen, it was with slight exceptions quite clear, and at times a person on board of the Louisiana might have seen across to the eastern shore; but toward the west there were heavy banks of snow-clouds, so that it was impossible to see vessels coming in that direction without lights at any considerable distance, and of course it was impossible for a steamer coming up the bay to make such regulations as to speed and course to avoid a collision with the schooner of the libellants, as under more favorable circumstances could and would have been made. The schooner of the libellants displayed no lights, and it was the only vessel that was seen that night that was unprovided with lights; and in consequence of the character of the night, and the absence of lights, said schooner was not seen, and could not be seen, until the two vessels, the steamer and schooner, were within the short distance of three or four hundred yards.

Fifth. In answer to the fifth article, this respondent states, that it cannot say what course precisely the schooner was going when the steamer was first seen therefrom, but when the schooner was first seen from the steamer the schooner was to the eastward, and proper action was had on board the steamer, so as to direct her course to the westward, when the schooner showed her broadside, keeping off to the westward, and immediately the course of the steamer was changed, and the boat was stopped and backed; but from the proximity of the vessels when the schooner was seen in this position, it was impossible by any effort to avoid a collision. Further answering this article, this respondent says, that the schooner was not making a southwest course against the wind, and that the wind was not blowing south by east, as alleged in said article; the wind was due southeast. This respondent cannot say how fast the schooner was going. The steamer was going at her usual rate of fifteen miles an hour. The schooner was struck at about ten to twelve feet from the stern. At the time of the collision the schooner was not on the southwest course as alleged, but was actually heading about west by south, when her true course would have been south by west, or south-southwest.

Sixth. In answer to the sixth article, this respondent says, that it is not admitted that the said schooner was well equipped and manned; and that it is not admitted that her officers and crew were careful and capable; and it is not admitted that the said collision was without any negligence or default, mismanagement, or want of skill on the part of the officers or crew of said schooner; and it is not admitted that the same was the result in any degree, of any carelessness, negligent or unskilfulness of the persons having control of said steamer, nor is it true that said steamer was without any sufficient or careful helmsman or look-out either as required by law or otherwise.

Seventh. In answer to the seventh article, this respondent says, that the said schooner was not of the value stated in said article; nor is it true that the libellants were damaged as stated in said libel.

Eighth. In answer to the eighth article, this respondent says, that it is not admitted that said libellant, Herbert M. Fenton, had goods on board of said schooner at the time of said collision, as stated in said article, nor that he sustained loss as alleged in said article.

Ninth. The truth of the ninth article is confessed.

Tenth. In answer to the tenth article this respondent denies that the said libellants are damaged as alleged in said article, and denies that the matters of said libel, except in so far as confessed in this answer, are true.

And this respondent, by way of defensive, affirmative allegations, alleges and propounds as follows, that is to say:

That said collision was the result of negligence, unskilfulness, and want of care on the part of the persons who had charge and control of said schooner, at the time of said collision; that said schooner had no light displayed, and in consequence thereof the said schooner was not seen and could not be seen in consequence of the state of the atmosphere at the time; and that said schooner, improperly, unskilfully and

recklessly, and without any necessity produced by the winds and waves, changed her course when very near the steamer, and when, but for such change, the said steamer would have cleared her by the adoption of the necessary and proper expedient of changing the course of the steamer to the westward after the schooner had been seen from the steamer, and endeavoring to stop and back the steamer so as if possible to prevent the collision.

All which matters and things this respondent is *duly* to aver, mention and prove as this honorable court may direct, and prays that the said libel may be dismissed with costs, &c.

WILLIAM SCHLEY,
WM. K. FALLS,
Proctors for Respond't.

DISTRICT OF MARYLAND, *to wit:*

Be it remembered, that on this 28th day of March, 1856, before the subscriber, a commissioner appointed by the circuit court of the United States for the District of Maryland, personally appeared Moore N. Falls, president of the steam-packet company, and made oath that the matters and things set forth in the foregoing answer are true as therein stated.

LEVIN GALE.

Deposition of John W. Kempton, a witness for the libellants, taken before George A. Vroom, U. States commissioner, at the city of New Brunswick, in the district of New Jersey, on the 26th May, 1856.

ISAAC FISHER and others
vs.
THE STEAMER LOUISIANA
AND CLAIMANTS.

In the District Court of the United States for the district of Maryland.

Notice.

To William Schley, Esquire, proctor for claimants:

DEAR SIR: Be so good as to take notice, that on Tuesday next, May the 20th, at 10 o'clock a. m., at the office of George A. Vroom, esq., U. S. commissioner in New Brunswick, New Jersey, we shall proceed to take the depositions of witnesses to be used on the part of the libellants in the above entitled cause, in admiralty.

Very respectfully, yours,
WM. PRICE,
S. T. WALLIS,
Proctors for Libellants.

Baltimore, May 14, 1856.

Service admitted, May 14, 1856.

WM. SCHLEY,
Proctor for Defendant.

Question 1st. Where do you reside, and what is your occupation?

Answer. I reside at New Brunswick, in the State of New Jersey, and I am by occupation a shipwright.

Question 2d. Were you acquainted with the schooner George D. Fisher, of New Brunswick; and if so, do you know who the owners of said schooner were, or are?

Answer. I was acquainted with that schooner; the owners of the said schooner were, Isaac Fisher and Lawrence Fisher, Jonathan Campbell, George D. McCoy, and John Hatfield, who is deceased; they were the owners at the time I rebuilt the said schooner. I am not able to say who owns the interest in the schoonor which Mr. Hatfield had at the *the* time of his death.

Question 3d. Did you rebuild this schooner; and if so, when?

Answer. I did rebuild this schooner between the 30th day of December, 1849, and the 18th day of April, 1850.

Question 4. State fully what work was done to her; whether she was lengthened; in what manner the work was done as to quality and materials, and of what kind of wood the repairs were made, and what directions you received as to the manner in which the vessel should be rebuilt, and whether these directions were complied with?

Answer. The said schooner was lengthened by cutting off eighteen feet of the stern, and adding twenty-five feet to her; the work was done in good workmanlike manner, as to quality and materials; the repairs were made to the frame, of New Jersey white oak, and the decks of white pine. I do not recollect that any particular directions were given as to the manner in which the vessel should be rebuilt. Some one of the owners were constantly present while the vessel was being repaired, and they were satisfied with the manner in which the work was done.

Question 5. Beside lengthening the schooner, please state more fully what was done to her?

Answer. The whole vessel had a thorough overhauling. She had a new keel and kelson; she was stripped thoroughly, and wherever any timbers were found defective they were replaced; the whole deck was stripped off, and an entirely new deck frame was put in; she was repaired as well as any boat of her class is repaired.

Question 6. What was the value or expense of the repairs and improvements put by you on said schooner at that time?

Answer. The amount of my bill for repairs was ten hundred and ninety-two dollars and forty cents ($1092 40). The principal part of my bill was for work. The account contained on the first page of the paper now shown me, and mark exhibit A, on the part of the libellants, contains my bill for repairs to said vessel.

Question 7th. What does that account embrace?

Answer. With the exception of a few charges for timber, plank and knees, that account is made up of my charges for labor.

Question 8. Did the owners furnish the materials for the repairing and rebuilding of the vessel; and if so, what were they worth?

Answer. They did furnish the materials, but I am not able to

estimate the cost of said materials without seeing the bills. I can say that the materials were of good quality.

Question 9. What was the fair value of that schooner when she went out of your hands after you repaired her?

Answer. I should judge her hull at that time was worth three thousand dollars; as to the rigging and spars, I do not include them in the amount above stated.

Question 10. In what care and condition has that schooner been kept by the owners since you repaired her?

In extraordinary good care and condition.

JOHN W. KEMPTON.

Sworn and subscribed before me at New Brunswick, in the district of New Jersey, this 26th day of May, A. D. 1856.

GEORGE A. VROOM,
Commissioner, &c.

Deposition of Lewis H. Hoagland, a witness for the libellants, taken before George A. Vroom, U. S. Comm'r, at the city of New Brunswick, in the State of New Jersey, on the 26th May, 1856.

Question 1. Where do you reside, and what is your occupation?

Answer. I reside in New Brunswick, New Jersey, and am a shipwright by profession.

Question 2. Were you acquainted with the schooner George D. Fisher; and do you know the owners of her?

Answer. I know the schooner George D. Fisher; I knew the owners at the time she was rebuilt, and also at the present time.

Question 3. Who are the owners at the present time?

Answer. Isaac Fisher, Lawrence Fisher, George D. McCoy, Jonathan Campbell, and Herbert M. Fenton.

Question 4. Were you ever employed to overhaul and repair said schooner; if so, when, and where, and by whom?

Answer. I was employed to overhaul and repair her about the first day of July last, at New Brunswick, by the owners.

Question 5. State what overhauling and repairing you did; the character of the work and materials; and the expense of such work and materials.

Answer. She was caulked all over; she had diagonal braces put in her, made of white oak forty-five feet long and twelve inches wide by three inches thick; the braces were through bolted. The braces cost as near as I can judge about one hundred dollars. These braces were put in to remedy a weakness caused by her being strained. The caulking would cost in the neighborhood of twenty-five dollars. I put a new mainmast in her, which cost for the stick and labor in the neighborhood of forty dollars; I rebolted her bed-piece down, and put in two sister kelsons, extending from underneath her trunk cabin aft, to the fore end of the vessel, and about 85 feet long each; they were of

white oak, six inches by ten inches; the sister kelsons, I think, cost about forty dollars.

Question 6. State what was the condition of the vessel when you made such repairs; whether she was sound or unsound?

Answer. When I made the repairs, I considered her a sound vessel; I know her to be sound from personal inspection and examination while she was being bored for the bolts.

Question 7. In what condition was she put at the time by you?

Answer. I considered that she was put in as good condition as she could be for a vessel engaged in the business in which she was engaged.

Question 8. What was the value of the hull of the vessel at the time she went out of your hands?

Answer. I considered it worth twenty-five hundred dollars.

Question 9. In what condition was she kept by her owners?

Answer. In my judgment, she was always kept in good condition, and suitable for the business she was in.

Question 10. Do you recollect the fact that this vessel was rebuilt by John W. Kempton; and if so, had you an opportunity of judging of the character of the workmanship and materials put upon her?

Answer. I remember that the schooner was repaired in Mr. Kempton's yard in the winter of the year 1850; and I had an opportunity of judging of the character of the workmanship and materials put on her.

Interrog'y 11. State the character of that work and the materials, and what condition the vessel was put in?

Answer. The materials put in her were of a good quality, and the work done on her was as good as is generally done to vessels of her class; I thought that no expense or pains were spared on her; and believe that when she left Kempton's yard she was as good as a new vessel; I think she was principally made new.

LEWIS H. HOAGLAND.

Sworn and subscribed at New Brunswick, in the district of New Jersey, this 26th day of May, 1856, before me,

GEO. A. VROOM, *Comm'r.*

Deposition of Henry B. Metcalf, a witness for the libellants, taken before Thomas S. Anthony, U. S. Comm'r for the district of Rhode Island, on the 3d day of June, 1856.

1st interrog'y. Were you or not a passenger on board of the steamer Louisiana on the night of the 27th of December, 1855, when the said steamer came in collision with the schooner George D. Fisher? If you were, be so good as to state in what part of the steamer you were at the time of said collision; and about what hour the same took place.

Answer. I was; I was in the lower cabin; it took place about 11 o'clock in the evening, as near as I can recollect.

2d interrog'y. Did you or not see the said schooner before the collision? If you did, please state how far off she was when you saw

her first, and what direction she was taking; and if you have sufficient knowledge of nautical matters, state the relative positions which the two vessels occupied towards each other when you first saw the schooner, as well as the respective courses they were sailing.

Answer. I did not see the schooner till after the collision.

3d interrog'y. How long was it from the time you first saw the schooner until the collision; was the speed of the steamer checked, or were her engines stopped before the collision took place? If yea, please state how long before said collision, and how far from the schooner.

Answer. I did not see her; I do not know that the speed of the steamer was checked.

4th interrog'y. What were the relative positions of the two vessels at the moment and in the act of collision; in what part of the schooner was she struck; did the schooner or not sink; if yea, how long after she was struck?

Answer. I was in the cabin at the moment the collision took place; I felt the shock and went on deck; and when I went forward the two vessels were just dropping apart; the schooner was struck about midships; she sunk in a few minutes; I should think about five.

5th interrog'y. What was the state of the weather; was the wind fresh or mild; was the night clear or cloudy; moonlight or starlight; how far off might a sailing vessel with her sails set, and without a light, have been seen by a good and careful look-out; from what quarter was the wind blowing?

Answer. It was not unpleasant; the wind was moderate; the night was not clear, nor was it very cloudy; I do not recollect whether it was moonlight or not; I should think such a vessel might have been seen half a mile off; I don't know from what quarter the wind blew.

6th interrog'y. If there is any other fact in regard to the collision and its circumstances, which remains in your memory favorable to the libellants, and which has not been elicited by the foregoing interrogatories, be so good as to state them as fully as if specially interrogated in regard thereto. State particularly, if you know, who was at the steamer's helm, and whether any and what person or persons was or were upon the look-out, besides the helmsman; was the helmsman a white man or colored; if there was any look-out to your knowledge besides the helmsman, be so good as to state in what part of the steamer he was posted, and on what deck?

Answer. I do not remember any other facts; the night being sufficiently light for vessels to be seen at half of a mile in my judgment, with proper look-out the collision, in my opinion, might have been avoided; I do not know who was at the helm, or whether there was any look-out.

HENRY B. METCALF.

Deposition of Thomas B. Rowland, a witness for the libellants, taken before John T. Francis, U. S. Comm'r, at the city of Norfolk, on the 3d day of June, 1856.

1st interrog'y. Were you or not a passenger on board the steamer Louisiana, on the night of the 27th of December, 1855, when the said steamer came in collision with the schooner George D. Fisher? If you were, be so good as to state in what part of the steamer you were at the time of said collision, and about what hour the same took place.

Answer. I was on board the steamer Louisiana on the night of the 27th of December, 1855, when a collision took place with the schooner George D. Fisher; I was on the main deck, walking in company with another passenger, between the ladies' saloon and the shaft on the starboard side; it was between 10½ and 11 o'clock, or thereabouts, as well as recollected.

2d interrog'y. Did you or not see the said schooner before the collision? If you did, please state how far off she was when you saw her first, and what direction she was taking; if you have sufficient knowledge of nautical matters, state the relative positions which the two vessels occupied towards each other, when you first saw the schooner, as well as the respective courses they were sailing.

Answer. I did not see the schooner before the collision.

3d interrog'y. How long was it from the time you first saw the schooner until the collision; was the speed of the steamer checked, or were her engines stopped before the collision took place; if yea, please state how long before said collision; how far from the schooner?

Answer. The first intimation I had of anything unusual was the signal to stop and reverse the engine, by three quick successive strokes of the bell in the engine-room, given by the person at the wheel, which I understood to be to stop and back; the speed of the steamer was checked, but the collision took place while the engine was backing; there was a short interval of time between the order to stop and reverse the engine and the moment of collision.

4th interrog'y. What were the relative positions of the two vessels at the moment and in the act of collision? In what part of the schooner was she struck? Did the schooner or not sink? If yea, how long after she was struck?

Answer. I cannot say, as I did not see the schooner before the collision; the schooner was sunk; she sunk within ten minutes after the collision, as well as I can judge.

5th interrog'y. What was the state of the weather? Was the wind fresh or mild? Was the night clear or cloudy? How far off might a sailing vessel with her sails set and without a light have been seen by a good and careful look-out? From what quarter was the wind blowing?

Answer. The weather was mild, with but little wind; moonlight, but with heavy banks of clouds to the westward; I am not capable of judging how far off a vessel with her sail set and no light might be seen, but on that night a vessel might have been seen some distance,

particularly when the moon was not obscured by clouds; I cannot say from what quarter the wind was blowing.

6th interrog'y. If there is any other fact in regard to the collision and its circumstances, which remains in your memory favorable to the libellants, and which has not been elicited by the foregoing interrogatories, be so good as to state the same as fully as if specially interrogated in regard thereto, state particularly if you know who was at the helm of the steamer, and whether any and what person or persons was or were upon the look-out besides the helmsman; was the helmsman a white man or colored? If there was any look-out to your knowledge besides the helmsman, be so good as to state in what part of the steamer he was posted, and on what deck?

Answer. I know of nothing important to the libellants except what I have stated; I did not go forward till five or ten minutes after the collision, being engaged aft in aiding the rescue of a man overboard; when I got forward the vessel was sunk; I do not know who was on the look-out on board the steamer, or who or what persons were at the helm of the steamer; I do not know whether there was any look-out besides the helmsman, and if there was, where he was posted.

THO'S B. ROWLAND.

Decree.

FISHER and others
vs.
THE STEAMER LOUISIANA
AND CLAIMANTS.

In the District Court of the United States in and for the district of Maryland.

This cause standing ready for hearing, and having been argued, and the proceedings, proofs and arguments having been read, heard and considered: It is thereupon, this seventeenth day of June, 1856, by this court and the authority thereof, adjudged, ordered and decreed, that the libellants, Isaac Fisher, Jonathan Campbell, Lawrence Fisher, George D. McCoy and Herbert M. Fenton, owners of the schooner George D. Fisher, have and recover the sum of three thousand dollars, and the libellant, Herbert M. Fenton, in his own right, the sum of one hundred dollars, for their respective damages in said libel alleged and claimed, together with the costs of these proceedings.

And it is further adjudged, ordered and decreed, that the stipulators, Moore N. Falls and Samuel Shoemaker, pay unto the said Isaac Fisher, Jonathan Campbell, Lawrence Fisher, George D. McCoy and Herbert M. Fenton, the said sum of three thousand dollars, and unto the said Herbert M. Fenton the sum of noehundred dollars, or cause the same to be paid to them respectively or their respective proctors, together with the costs of this proceeding. And it is further adjudged, ordered and decreed, that unless the said stipulators, or the Baltimore Steam-packet Company, the claimants, pay or cause to be paid to the said libellants

respectively the said sums of three thousand dollars and one hundred dollars, together with the costs of this proceeding, according to this decree as aforesaid, on or before the tenth day of July proximo; the said steamer Louisiana in the proceedings mentioned, with her apparel and furniture, be, and she is hereby ordered to be sold by the marshal according to the rules and practice of this court and of admiralty; the proceeds of said sale to be applied to the payment of the sum of money and costs so as aforesaid decreed to be paid to the libellants respectively; the balance, *of* any, to be brought into this court for its further order.

WILLIAM F. GILES.

From which said decree so as aforesaid passed, the said claimants of the said steamer Louisiana, by their proctors, in open court here have prayed an appeal to the circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the city of Baltimore on the first Monday in November next, and to them it is granted; and also the libellants by their proctors in open court here have prayed an appeal to the said circuit court of the United States, to be held at the city of Baltimore on the first Monday in November next, and to them it is granted.

Whereupon it is ordered by the court here, that the record and proceedings aforesaid, with all things relating to the same, be transmitted to the said circuit court, and the same are hereby transmitted accordingly.

Appeal Bond.

Know all men by these presents, that the Baltimore Steam-packet Company, M. N. Falls, S. Shoemaker, J. McConkey and G. R. Vickers, are held and firmly bound unto Isaac Fisher, Jonathan Campbell and Lawrence Fisher, of New Jersey, and Robert M. Fenton of Pennsylvania, and George D. McCoy, of New Jersey, in the just and full sum of six thousand two hundred dollars, lawful money of the United States, to be paid to the said Isaac Fisher, Jonathan Campbell, Lawrence Fisher, Herbert M. Fenton and George D. McCoy, their heirs, executors, administrators or assigns; to which payment well and truly to be made and done, we hereby bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this twentieth day of June, in the year of our Lord one thousand eight hundred and fifty-six.

Whereas, at a district court of the United States in and for the Maryland district, begun and held at the city of Baltimore, on the first Tuesday in June, in the year of our Lord one thousand eight hundred fifty-six, the said Isaac Fisher, Jonathan Campbell, Lawrence Fisher, Herbert M. Fenton, and George D. McCoy, by the decree of the same court, recovered against the said steamer Louisiana, her tackle, apparel and furniture, her boats, engine and machinery, and against Moore N. Falls and Samuel Shoemaker, stipulators in behalf of the said steamer, the sum of three thousand one hundred dollars, for their damages occasioned

by the collision in the proceedings in this cause complained of, together with their costs.

From which said decree so as aforesaid passed, the Baltimore Steam-packet Company, claimants and owners of the said steamer, and the said stipulators, by their proctors, in open court here prayed an appeal to the circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the city of Baltimore, on the first Monday in November next:

Now the condition of the aforegoing obligation is such, that if the said claimants and owners of the said steamer Louisiana, and said stipulators, shall well and truly prosecute with effect their said appeal, and pay unto the said Isaac Fisher, Jonathan Campbell, Lawrence Fisher, Herbert M. Fenton and George D. McCoy, their heirs, executors, administrators or assigns, the amount of the said decree, costs and charges aforesaid, adjudged unto them by the said district court; and also all such damages, costs and charges as may be award unto them by the said circuit court, in case they, the said appellants, shall fail to make good their said appeal, then the above obligation to be void and of none effect, otherwise to be and remain in full force and virtue in law.

Baltimore Steam-packet Company,
M. N. FALLS, [SEAL.]
S. SHOEMAKER, [SEAL.]
JAS. McCONKEY, [SEAL.]
G. R. VICKERS. [SEAL.]

Signed, sealed and delivered in presence of—
WM. K. FALLS,
ED. WOODSIDE.

Bond approved 20 June, 1856.

WM. F. GILES.

In testimony that the aforegoing is a true copy taken from the record and proceedings of the district court aforesaid, I here-
[SEAL.] unto subscribe my name and affix the seal of the said district court, this eleventh day of July, in the year of our Lord one thousand eight hundred and fifty-six.

THO. SPICER,
Cl'k Dist. Ct.

Deposition of James Marshall, a witness for the appellant, taken before Levin Gale, esq., U. S. Comm'r for Maryland district, in the city of Baltimore, on the 14th day of October, 1856.

Question. Were you connected in any way with the steamer Louisiana, in December, 1855; and if yea, in what capacity?

Answer. I was second mate and pilot.

Question. Were you on board of said steamer on her passage from Norfolk to Baltimore, on the 27th of December, 1855?

Answer. Yes.

Question. In what part of the bay did the collision occur; describe the precise locality?

Answer. It was between five and six miles above the Rappahannock light-boat.

Question. What is the width of the channel on either side where you then were?

Answer. The channel is about five or six miles wide, and the steamboat was in about the middle of the channel; the bay was much wider.

Question. Was there any necessity for the change of her course by the schooner?

Answer. No, she had plenty of sea-room.

Question. When you gave the signal to stop and back, and port the helm as above stated, say whether or not these signals were obeyed, and also say, if obeyed, whether promptly or not?

Answer. They were obeyed, and promptly too.

Question. Do you know who were on board of the George D. Fisher at the time of the collision?

Answer. I do not *rember* the names; there were four altogether, all white—two men, and two lads not fully grown.

Question. Had the steamer on that night her full complement of men, and was she fully manned?

Answer. Yes.

Question. What was the character for experience, attentiveness and skill of the man at the wheels, the engineer and other officers respectively?

Answer. They were all good.

Cross-examined.

X-Question. You were examined in this court, were you not?

Answer. Yes.

X-Question. At what distance did you then say that the schooner was from the steamer when first discovered?

Answer. From a hundred to a hundred and fifty yards, I think.

X-Question. Did you not then say in your testimony that the schooner when first seen by you was at the distance of three hundred yards from the steamer?

Answer. I do not remember now.

X-Question. You say that the night was very dark; was it not a moonlight night?

Answer. No sir, it was not; the moon was up, as I stated before, but it was thick, cloudy at the east; the clouds were a little broken; the moon would come out at times, very little though, not more than a half a minute or so at a time.

X-Question. How far could such an object as the schooner be seen that night without a light?

Answer. I do not believe over a hundred and fifty yards; one reason made the vessel show worse was, that her sails were of a dark color, they were not of the natural color of white canvass.

X-Question. You say that you were acting that night as pilot, and were stationed in the pilot house; were you at the wheel?

Answer. No, I was standing in front of the wheel, where we are accustomed to stand—the place from which we look out, on all the steamboats running in these waters.

X-Question. Were you the look-out on that occasion?

Answer. Yes, and Captain Pearson was also on the look-out. The second mate is in the captain's watch.

X-Question. You and the captain were both looks-out on that occasion, were you? Is it usual for the captain to look out, or is there not a person stationed on the look-out of the vessel or steamer?

Answer. It is usual for the captain to look out on dark nights. On dark nights, most or all of our captains set up all night.

X-Question. Was the night cold, or otherwise?

Answer. The wind being to the eastward, it was damp and raw. I can't say it was a very cold night, but it was damp and raw.

X-Question. Did you see any vessels without lights that night; if so, how far were they from you?

Answer. I passed one, I think; she was to the eastward of us; I could see a good deal further to the eastward; the moon being up, made it a little lighter to the eastward; she was from three to four hundred yards to the eastward of us, out of our track, and we did not have to steer for her at all, and she was laying her course right down the bay.

X-Question. Did you not in your examination before the district court say that you passed several vessels on that night without lights?

Answer. I don't recollect saying so; I recollect saying that I saw several with lights.

Question. How fast was the Louisiana running when you rang the bell to stop her; had her speed been at all slackened before that time?

Answer. She was running from fourteen to fifteen miles per hour, and her speed had not been slackened before the bell was rung to stop her.

X-Question. How much wind was there at the time of the collision, and from what point?

Answer. From five to six knot breeze, and was blowing from the southeast.

X-Question. How long a time elapsed between your first seeing the schooner and the collision?

Answer. About a minute and a half to two minutes; two minutes, I suppose.

X-Question. How much time elapsed from the change of the schooner's course to the collision?

Answer. I can't tell that, it was pretty short; as soon as I saw her, I went to change the course of the steamer, and then saw that she had changed her course, and I then rang the bell to stop; it was a very short time.

X-Question. Was it long enough for the steamer to answer her helm?

Answer. Not to have cleared her, she would have sheered a little.

X-Question. When you first saw the schooner, towards what points was she steering?

Answer. She was heading about south-southwest.

X-Question. How many points did she change her course, and towards what point did her change of course cause her to head?

Answer. She changed her course about five points, and she was heading about west by south when we struck her.

X-Question. Who had command of the wheel?

Answer. I had at the time; I was in the pilot-house still as I mentioned; Captain Pearson was on the outside of the house, and on the look-out as well as myself. We both saw the schooner about the same time. It was the captain's watch on deck; on ordinary nights the captain sits up until twelve o'clock, but when it is bad weather he stays up all night.

X-Question. How long was it after the collision before the schooner sunk?

Answer. I don't suppose it was over a minute or a minute and a half.

X-Question. How deep did she sink?

Answer. She sank until she touched bottom; just the head of her masts and topmast were out.

X-Question. Was it in that minute and a half that you discovered that her sails were darker than ordinary canvass?

Answer. No, sir; but I suppose from their being dark was the cause of my not seeing her sooner; I heard since that they were dark; I did not know that at the time.

[The proctor for the appellees object to so much of the answer as is not responsive to the question.]

X-Question. Was Captain Pearson at his station as look-out when you first saw the schooner, or at the time of the collision?

Answer. Yes, sir; he was stanging alongside of the pilot-house, where he had all in view.

X-Question. Did you or Captain Pearson first see the schooner?

Answer. I believe we both saw her about the same time, I think.

Re-examined.

Question. What is the usual rate of speed of the Louisiana?

Answer. About fifteen miles per hour.

Question. Describe the pilot-house on board of the Louisiana, so far as to show whether a person standing inside could see out or not in front and at the sides?

Answer. It is upon the forward part of the upper deck; there are two large windows in front and one on each side; a person inside of the pilot-house can see as well there as any other part of the boat; and it is the usual place of the look-out.

Question. If a person were stationed at the bow of the Louisiana, could he see better, or as well as if stationed in the pilot-house on the upper deck?

Answer. He could not see as well; we have a large bow lamp, and standing up forward the light would blind him.

Question: How do you know that the sails of the schooner were not white canvass?

Answer. The men belonging to the schooner said so; I have seen the heads of the sails since, they were of a dark color; it is from a kind of tan put upon them to hide mildew.

JAMES MARSHALL.

Deposition of Solomon Pearson, a witness for the appellants, taken before John Hanan, esq., U. S. Comm'r, at the city of Baltimore, on the 15th October, 1856.

I was captain of the steamboat Louisiana on the 27th of December, 1855; I left Portsmouth at 6 o'clock in the afternoon, bound for Baltimore; landed passengers at Old Point coming up; and took in the mail there; at this time it was very dark; I went on then to Baltimore, and nothing particularly occurred, until we passed the Wolf Trap light-boat; up to that point we steered north by east; and then after passing the Wolf Trap, we hauled our course north; then Mr. Marshall, the pilot and second mate, took charge of the pilot-house; this was about 9 o'clock; up to this time he had been looking out with me, he being on the outside, and I in the pilot-house; after he went into the pilot-house, I came out, and stood on the outside of the pilot-house and keeping a look-out; my position was on the port-side of the pilot-house to keep out of the wind; the wind at that time was blowing very stiff from southeast; and if I had stood on the other side of the pilot-house, I could not have seen as well, as the wind would have been in my eyes; about 10 o'clock, or as near as I can come at it, we passed the Rappahannock light-boat; in a very short time after that, I saw a black object; it appeared to be heading about south-southwest down the bay; it was about two points or 2½ points to the east of us; I could not tell at that time whether it was a vessel at anchor or under way, but directly discovered it was a vessel under way, and she kept right hard off to the westward; this vessel had no lights; I think the distance was from 200 to 250 yards, as near as I can come to it; it might be more or it might be less, but I think that was about the distance; as soon as I saw her jib, I called to Mr. Marshall to stop and back, and I heard the bell ring distinctly, as soon as the words were out of my mouth, one to stop and two to back; these signals were obeyed as quick as possible. The steamer kept on backing till the steamer's stern hit the vessel's port quarter, about 10 feet, as near as I can come to it, from the stern of the vessel; then I immediately stopped the backing of the steamer for fear I might get too far to save the persons connected with the vessel, having heard that one was overboard; I ran right to the side of the boat, and saw a black object; I picked up our life-chair, and threw it close to the object I saw, so as not to hit it, and then I found it was a man who immediately got hold of it; then Mr. Marshall ran and lowered the quarter-boat immediately, and saved the man and brought

him on board our steamer; the other persons on board the vessel got on board the steamer over the bows; the night was dark, the moon had risen, and must have been up near an hour; I first saw her rise out of a bank of low clouds; was occasionally visible, not longer, I think, than half a minute at a time; from east to west and to the north, it looked like a heavy bank of snow-clouds; all to the south it was more clear. If the vessel had had a light, I could have seen her at the distance of three miles and a half; a light showed very well that night, it was very dark, but not foggy; our steamer had very good lights; we had a full crew; the officers and crew were skilful and competent. I have been engaged in steamboating twenty-three years in this same line; I had previously been engaged in the coasting trade eight years; I was at the time when the vessel hove in sight actually on the look-out, standing on the outside of the pilot-house as before described; Mr. Marshall at the time was standing in the pilot-house, looking out of the front window, his head being out, and he standing in front of the wheel, which was his proper place; Mr. Marshall is a first-rate man, and has been with me off and on 12 or 13 years, and I have always found him a skilful man; at one time Mr. Marshall had charge of the Columbia in place of Captain Harper, when the latter was sick for about a year, and gave every satisfaction. The best place for a look-out on board the steamer was the pilot-house, which is situated on the front part of the forward deck; the reason that it is better is, that it is higher from the water, and you can see further; we have a very large light in front of the bow of the Louisiana, so that it would blink any one standing at the bows; the vessel at the moment of the collision was heading west by north; the steamer was then heading due north; in striking the vessel near the stern, the effect was, to put her stern more to the north, and the vessel sunk, heading west by south; if the vessel had continued the course which she held when I first saw her, she would have gone to the eastward of the steamer about one hundred yards, and of course would have cleared the steamer.

Cross-examined.

About half an hour before the collision, when Mr. Marshall went into the pilot-house, I went into the saloon, which is in the rear of the pilot-house on the same deck, to warm my feet; I remained there I think about five minutes, and then immediately returned, and went to my post at the pilot-house, as I have already described.

Nothing occurred whilst I was in the saloon, to warn me that anything was wrong; while I was standing alongside of the pilot-house, I heard the rudder-chains move quickly; the motion of the rudder-chains did not induce me to look-out; I was at that time looking out all round; the motion of the rudder-chains and the discovery of the dark object, which turned out to be a vessel, occurred about the same time; the rudder-chains was caused by the helmsman heaving the wheel to starboard; we did not change the course of the steamer when we first discovered this dark object, which, afterwards, turned

out to be the schooner; we hove the helm to starboard, and then we saw the schooner had kept hard off to the westward, across our bows, and before the steamer had sheered, in obedience to the starboard motion of her wheel, we stopped and backed her, and put the helm to port.

The motion of the rudder-chains, of which I have spoken, was caused by the man at the wheel heaving the helm to starboard, as I have already stated. Mr. Marshall may possibly have seen the object before I did, although I was actually looking out, and looking round at the same time; I think we saw it about the same time; I suppose the helm was put to starboard for the purpose of avoiding this vessel; I gave the orders to Mr. Marshall to stop and back, and, by the time the words were out of my mouth, I heard the bell ring three distinct times. From the time I first saw the vessel, until the time of the collision, was, I should suppose, about two minutes, it might be more, or it might be less.

The vessel changed her course and kept hard off to the westward; I saw her jib, which enabled me to judge that it was a vessel under way; the change took place immediately after I first saw the object; when I first saw it, it looked like a cloud; I could not tell if it was a vessel at anchor or under way. When I saw the jib, I first knew it was a vessel under way; she did change her course after I first saw her jib, because she was *chang* then, and kept changing all the time till the collision; she kept hard off all the time.

1st question. If, when you first saw the vessel, you could not tell if she was under way or at anchor, how do you know what course she was then steering?

Answer. Could tell it by the bearing of our courses; when I first saw the object it looked like a cloud; afterwards, I noticed she was heading about a south-southwest course; then I saw the jib, which showed she was under way and keeping off.

2d question. Did you see what course the vessel was steering before you saw her jib?

Answer. I saw she was heading about south-southwest, but I could not tell whether she was under way or at anchor; then, in an instant, I found she kept her helm hard up, and kept hard off to the westward; when I saw her jib, which I had not seen before, it showed she was under way.

3d question. How far had your steamer moved, between the time you first saw the dark object, and your discovery that the schooner was under way?

Answer. I don't think we went more than two lengths when I discovered the vessel was keeping hard off; the length of the Louisiana is 250 feet.

4th question. Did you not hear the rattling of the rudder-chains, of which you have spoken, before you saw the dark object which proved to be a vessel; did you not so state in your examination before the district court?

Answer. I did hear the rattling of the rudder-chains, somewhat before I saw the dark object which then looked like a cloud; it is likely I did so state it in my examination before the district court.

5th question. Did you hear any one call out from the schooner before the collision?

Answer. I heard some person, can't tell who, crying out apparently from the schooner; the cry was, "Are you going to run over us?" or, "What are you going to do?" or something of that kind; I suppose the schooner was about 75 yards off at that time; and I replied, I am backing as hard as I can.

6th question. About what hour did the collision take place?

Answer. From ten to 15 minutes after 10 o'clock.

7th question. Were you the regular captain of the Louisiana?

Answer. I was then running for Capt. Russell, who was in New York, and who is the regular captain of the vessel; I always take his place when he can't go.

Re-examined in chief.

My regular boat is the Georgia; it belongs to the same company, and runs on the same route. I am familiar with the navigation of the bay, having sailed up and down it thousands of times. The wind at the time of the collision was southeast; it was a six knot breeze.

S. PEARSON.

Notice of the taking of Depositions.

BALTO., *Octr. 20th*, 1856.

Messrs. SCHLEY & FALLS,

Proctors of the owners and claim'ts of the Steamer Louisiana.

GENTLEMEN: You will be so good as to take notice that on Thursday next, Octr. 23d, we shall proceed to take testimony in the appeal pending between Isaac Fisher and others, and the claimants of the steamer Louisiana, at the office of Geo. A. Vroom, esq., U. S. commissioner, New Brunswick, New Jersey, at 10 o'clock a. m.

WILLIAM PRICE,
S. T. WALLIS,
Proctors for Fisher and others.

Depositions of Richard R. Herbert, Moses Wilcox, Andrew V. Morton, Samuel Jaques, John W. Phillips, Davis Fenton, and John E. Brown, witness for Isaac Fisher and others, against the steamer Louisiana, taken before George A. Vroom, esq., U. S. Com., at the city of New Brunswick, in the State of New Jersey, 24 Octr., 1856.

Richard R. Herbert, witness for Fisher and others.

I am a ship-carpenter by trade, and reside in the city of New Brunswick, New Jersey; I knew the schooner George D. Fisher, and have known her since the year 1851; she was on the ways of the shipyard of Hoagland & Taylor in this town; she was thoroughly overhauled

then. There was some borings done to her, to fasten new A-braces in her. There were between two and three hundred borings made in her, into which to put bolts to fasten these braces. I did not work on her myself at that time, but I worked in the yard alongside of her. I examined the borings; they were sound and good. I examined them while she was on the ways. She was on the ways in the summer of 1855; the hull of the schooner was worth fully $2500; the last time I saw her was in the fall of 1855. I am no judge of rigging. She was properly repaired, and fixed in a good substantial manner; she was fit for a California voyage.

Cross-examined.

In 1851 the schooner was called the George D. Fisher; at that time I thought she was a new vessel; in 1855, when she was on the ways, the holes were bored, and the braces put in her; I worked with Hoagland and Taylor when she was repaired, and in the yard where she was being repaired. I examined her hull; went aboard of her; I do not know what amount of repairs were put on her at that time; I do not know whether or not the schooner called George D. Fisher was ever called the Harrisburgh; I did not state on my examination before the district court at Baltimore, that she was once called the Harrisburgh. When the schooner was hauled up in 1855, she was not lengthened; her shape was not altered; they put the braces to stiffen her.

Re-examined in chief.

I do not know that the George D. Fisher had been rebuilt previous to 1855; I examined the borings to see whether the schooner was sound; I saw that one set of borings were right, and went along to look how the others were; some of them were stained where the spikes had been driven in, but not rotten.

R. R. HERBERT.

Deposition of Moses Wilcox, witness for Isaac Fisher and others, against the steamer Louisiana.

I am about fifty-seven years of age; I am a ship carpenter, and reside in New Brunswick. I worked on the schooner George D. Fisher in the year 1855, in the yard of Hoagland and Taylor; she was on the ways. I was employed with other men in putting in sister kelsons and A-braces; I was boring a good deal on her; there was more than one of us boring her; I should judge there was something like between two and three hundred borings, on both sides of her and through the centre. The borings afforded us a full means of judging of the soundness of the vessel; her hull at that time was all sound; I did not see any thing rotten about it; the work done on her then was done in a proper and substantial manner; her hull at the time she was repaired, when she went out of the yard, was worth from twenty-five to twenty-seven hundred dollars. The George D. Fisher never was rebuilt previous to the time I have spoken of, when I worked on her in the year 1855. There

was a vessel called the Harrisburgh, which had been tore to pieces, rebuilt and made longer, and called the George D. Fisher.

Cross-examined.

I first knew the George D. Fisher in 1849 or 1850; at that time I called her a new vessel. She was first the Harrisburgh, and was hauled up and repaired in eighteen hundred and forty-nine or fifty.

Question. Do you know what repairs were made to the Harrisburgh in the year eighteen hundred and forty-nine or fifty?

Answer. I do not know, I was not at work on her. The way I knew the Harrisburg was rebuilt and made longer, as I have before stated, is, I worked in De Hart's yard, which was the second yard below where she was on the ways, and I used to pass backward and forward going to my meals.

Question. If you did not know what repairs were put upon the Harrisburg in 1849 or 1850, why do you state that she was rebuilt?

Answer. Because I passed her and saw it. I should judge that in 1849 or 1850, the hull was worth from thirty-seven hundred to four thousand dollars. I was often aboard of her and examined her, as ship carpenters generally do; from that examination, and also from the time she was under repair, I form my estimate of her value; I lived within about a hundred yards of the place where the vessel was repairing. The last time I saw the George D. Fisher was in the fall of 1855. I should not like to form an estimate of the whole value of the vessel at that time, unless I took particular notice of the rigging and chains and anchors, what they were worth.

MOSES WILCOX.

Deposition of Samuel Jaques, witness or Isaac Fisher and others, against the steamer Louisiana.

I am a ship carpenter and caulker; I knew the schooner George D. Fisher; I knew her by that name in 1850. In 1849 I knew a schooner called the Harrisburgh was hauled up on John W. Kempton's ways; she was torn to pieces; all that was not good was thrown away, and new built to her; she was more than two-thirds new, newly planked from the keel up. She was then called the George D. Fisher, and in 1855 was repaired in Hoagland and Taylor's yard; I worked on her at that time; I did none of the borings; I counted her sound; I caulked her; caulking can most generally tell, as quick as any one, if a boat is sound; she was sound as far as I could see. In 1855 I should suppose her hull was worth in the neighbourhood of three thousand dollars. A new hull of that kind off the stocks would cost in the neighbourhood of four thousand dollars. The repairs on her in 1855 were all done up in complete order.

Cross-examined.

I was examined before the district court in Maryland. I knew the Harrisburgh some three or four years prior to 1849. I suppose the Har-

risburgh, when she was hauled up to be rebuilt, was worth a thousand or twelve hundred dollars, somewhere along there; she was then an old vessel, and was pretty well gone. They hauled her up to rebuild her; at that time her plank was all torn off her, and her ceiling out; there was fourteen feet cut off her stern, and twenty-five new feet added to her; she was fully rebuilt, new kelson, new keel, new deck plank, and new deck, and new deck frame. I worked in John Kempton's yard at that time; I worked on her all the while she was repaired; she was worth in the neighbourhood of four thousand dollars when she went out of Mr. Kempton's yard in 1850, in May or June; can't say for certain. I mean the hull was worth that sum. From 1850 to 1855 I know she was going through the canal carrying coal and other things, but I can't tell exactly what trade she was in; I can't tell the deterioration in vessels from year to year; I don't know that the schooner was ever hogged or twisted; I never saw her when she was so; I do not know the amount of repairs put on the schooner in 1849; I think in the year 1855 there was in the neighbourhood of five or six hundred dollars' worth of work put on her.

SAMUEL JAQUES.

Deposition of Andrew V. Morton, a witness for Isaac Fisher and others, against the steamer Louisiana.

I reside in New Brunswick, and keep a grocery store; I was a clerk for Hatfield & McCoy in 1850. I knew the schooner George D. Fisher at that time; Hatfield & McCoy were book-keepers for the owners of that vessel; I know that at that time she had been rebuilt; they were about through when I went with Hatfield & McCoy; Hatfield & McCoy were the paymasters for the work done on her; the paper now shown to me, marked Exhibit A on the part of Fisher and others, is a copy of the amount of each bill presented and paid by Hatfield & McCoy; I know it is a true and correct copy; the several amounts set forth in this paper were paid and settled by Hatfield & McCoy. I did not make this paper, but I have compared it with Hatfield & McCoy's ledger of the amounts paid out by them on account of the schooner, and found it correct as compared with the ledger. The original bills were compared with the ledger by me; the bills contained in a package marked Exhibit B on the part of Fisher and others being shown to the witness, he says, I believe these are the original bills as far as I have examined them; some of them I know to be.

Cross-examined.

Question. How do you know the schooner George D. Fisher was rebuilt?

Answer. I saw her launched from the ways; I know nothing about the previous history of the schooner; I compared the paper marked Exhibit A with the ledger, and the amounts correspond.

A. V. MORTON.

THE CLAIMANTS AND OWNERS OF THE STEAMER LOUISIANA
vs.
ISAAC FISHER and others.

In the Circuit Court of the United States—In Admiralty.

It is agreed that in making up the record for the Supreme Court in this case, the clerk may omit inserting in the said record the Exhibit B referred to in the deposition of Andrew V. Morton, and containing a large number of accounts and bills.

WM. SCHLEY,
For Appellants.
S. T. WALLIS,
Proctor for Fisher and others.

Exhibit A.

Schooner G. D. Fisher and Owners,

To Hatfield & McCoy, DRS.

1849.				
Dec'ber 31	To 1 broom, 1s. 9		–	$0 22
1850.				
January 5	Cash paid Richard Runyo	x	–	10 00
12	Do. do.	x	–	7 19
19	Do. do.	x	–	5 25
22	Cash paid J. S. Johnson	x	$5 85	
	" Lewis Y. Hough	x	66 00	
	" Beye & Vandyke	x	12 66	
	" John W. Remph		25 00	
	" Sampson & Balden	x	26 34	
	" Freight, &c		1 00	
				136 85
25	Cash paid J. Campbell	x	$6 38	
"	" Thomas Beyer & J. Fisher	x	18 16	
				24 54
26	Cash paid Garret Wyckliff	x	–	24 40
Feb'y 1	6 yr. C. flannel, a 1s		–	75
2	Cash paid Richard Runya	x	$14 00	
"	" J. H. Fisher	x	8 53	
				145 87
7	" Asher Schenck	x	–	
12	" James A. Scott	x	$26 45	
	Pint oil		16	
				26 61
18	Cash paid R. Stout	x	$54 73	
	" William Dehort	x	3 00	
				57 73
20	" Mathew Duer		–	16
"	" Van Duven	x	–	6 50
26	Second bill	x	$3 20	
"	Cash paid J. Campbell	x	7 14	
				10 34
27	" Daniel Sonnley	x	–	6 20
March 2	1 pint oil		09	
	Cash paid J. N. Phillips	x	$66 00	

Exhibit A—Continued.

		Cash paid Schenck..... x	$2 25	
		1 yard duck, 1s. 4.....	16	
				$68 50
		Amount brought over.....	–	$553 64
				553 64
March	6	Cash paid John E. Brown..... x	$5 25	
"		2 lbs. lard.....	21	
"		Paid John J. Davidson..... x	254 01	
"		" Isaac G. Williamson..... x	30 87	
				290 34
	9	Cash paid J. Campbell..... x	–	20 00
	11	" R. Runya & Campbell..... x	–	3 06
	12	36 cott batts, *a* 10c.....	$3 75	
		2	44	
				4 19
	15	Paid for caulking..... x	–	55 00
	16	Rhine & Holdman..... x	$35 50	
"		Charles Bishop..... x	2 75	
"		Moses Wilcox..... x	11 88	
				50 13
	20	12 cott batts, *a* 10c.....	–	1 25
	21	2 gallons oil, *a* 6s.....	$1 50	
		Paid William Waldman..... x	1 75	
				3 25
		Cash paid for jar.....	–	13
	23	" Samuel Lewis..... x	–	25 50
	25	" Edward Soper..... x	–	17 00
"		" Thomas Stanley..... x	–	4 00
	27	" J. Campbell.....	$1 00	
"		" William Dehort..... x	14 38	
				15 38
	28	" Jaquish & Kempton..... x	–	2 00
	30	" Holman & Rhine..... x	–	36 00
April	4	" Samuel Jaquish..... x	–	2 50
	6	Paid freight, 3s..... x	–	38
		Paid J. Rhine..... x	$9 13	
		Paid J. Holeman..... x	5 38	
				14 51
	8	John Campbell..... x	–	14 43
		4 cott batts.....	–	42
	10	Paid William Walden..... x	–	56
		Richard Morris..... x	$159 16	
		E. M. Brown..... x	28 00	
				187 16
		Amount brought up.....	–	$1,300 92
				1,300 92
	12	Paid Rhine..... x	–	6 75
	15	1 w. basin.....	19	
		Cash paid Kelly..... x	$3 78	
				3 97
	16	3 crock.....	38	
		Bishop & Neall..... x	$7 00	
				7 38
	19	1 nest t. pan.....	$1 13	
		1 pale, 1 brush.....	35	
		J. J. Davidson..... x	7 78	
				9 26
	20	Chs. Richards..... x	–	2 38
		Paid enrolment, &c.....	–	3 71

Exhibit A—Continued.

April	24	J. & D. Clark	x	$18 75	
		Benjamin Ren	x	38 00	
		Chs. A. Secor	x	–	$1 87
	26	J. Hutchinson	x	$265 00	
		J. N. Phillips	x	71 72	
					336 72
	27	Jas. Agnew	x	–	2 56
May	1	G. Ross	x	–	27 59
	3	James M. King	x	–	100 00
	6	Louis	x	–	8 00
"		John E. Brown	x	–	40 00
	31	Davis & Ditmer	x	–	30 00
				–	07
June	19	Ackens, Grant & Vanderote	x	–	32 15
	21	H. M. Price	x	–	13 09
July	1	J. W. Kempton	x	$1,039 66	
		Geo. Fuyler	x	1 75	
					1,041 41
	20	John Strong	x	–	224 26
August	7	B. Buyer	x	–	3 75
Sept'ber	4	Nelson & Miller	x	–	200 00
		Doty & Fard	x	–	49 08
		Letson & Strong, $22 30; A. Agnew, $1 81		–	24 11
					$3,526 86
		Amount brought over		–	3,526 86
		James McChesney, dec'd, for iron	x	–	6 63
		Jenkins & Fonda	x	–	52 13
		Jonathan Campbell	x	–	124 63
					$3,710 25
		Cr. by rigging		–	6 23
					$3,704 02
		Discount on $1,000 note		–	20 22
					$3,724 24
		Lawrence Fisher	¼ $931 06		
		Jonathan Campbell	¼ 931 06		
		Hatfield & McC	¼ 931 06		
		Isaac Fisher	¼ 931 06		
				–	$3,724 24

CIRCUIT COURT OF THE U. S.,
Maryland District.

ISAAC FISHER et al.
vs.
CLAIMANTS OF THE STEAMER LOUISIANA.

Exhibit A on the part of Isaac Fisher and others.
Oct. 24, 1856. GEO. A. VROOM, *Com'r.*

Deposition of John W. Phillips, witness for Isaac Fisher and others, against the Steamer Louisiana.

I am employed as a moulder in the Franklin foundery, Rhode Island; I recollect a collision taking place in the Chesapeake bay in the year 1855, on the 27th day of December, between the steamer Louisiana and the schooner George D. Fisher; it was between the hours of ten and eleven o'clock at night; I was, at that time, at the wheel of the schooner Roanoke; I was first mate of the Roanoke; at the time of the collision, we were from a half to three quarters of a mile from the George D. Fisher; we were following her directly in her wake; we were following her because we were strangers in the bay; our schooner and the Fisher were both beating down the bay; at the time of the collision we were both on the starboard tack; the George D. Fisher went about and stood on her starboard tack first; we went far enough on the larboard tack before we went about, to fetch in her wake on the starboard tack; the George D. Fisher had been on her starboard tack for twenty minutes, or half an hour, at the time the collision took place. I saw the collision; after going about, the George D. Fisher did not change her course until the time of the collision; at the time of the collision she was on her proper course, as the wind would allow her; her course generally at that time was S. W. and S. S. W., as the wind veered and hauled; the wind was blowing from the southward; it was moonlight, almost full moon, and was perfectly clear, and it was starlight; you could see vessels four miles up the bay; you could see a vessel further up the bay than you could down; you could see vessels further to the northward than to the southward, on account of there being northern lights. Sail vessels did not carry any lights that night, because it was so light you could see a vessel without any; it was almost like daylight; we were three or four miles north of the Rappahannock light-boat. The sail vessels were going about the rate of three or three and a half miles; I could distinguish the color of white sails from tanned sails. After the Fisher was run into, she sunk very shortly; I should judge the Fisher sunk in seven fathoms water; I throwed the lead soon after she sunk; she was loaded with coal, from eighty-five to ninety tons. I don't think the Fisher could be raised, because the least wind would cause such a sea that she could not be raised, she being so wide out in the bay. I think the freight of the Fisher was eighty-seven cents a ton; we carried the same kind of coal consigned to the same man for that freight. The steamer was heading to the northward; at the time of the collision, when I saw that the Fisher was sinking, I said to my captain the George D. Fisher is sinking, and rolled up my wheel to go under her lee to see if I could be of any assistance to her; the captain came on deck and ordered the schooner in stays, and she went about on the larboard tack; whenever we were wind-bound, I was in the habit of being on board the Fisher every chance I could get; she was well found, good blocks, spare blocks, spare rigging, good suit of sails throughout, well rigged and

manned, and in good condition, tight, good anchors, chains, and windlass.

Cross-examined.

I don't know how the tide was running that night; the light-boat was on the weather-bow of the Fisher, but I don't know the points of the compass; the Fisher had been on the starboard tack, from twenty minutes to half an hour, when the collision took place; I was sufficiently near, and it was light enough to have seen if the Fisher varied from her course while on the starboard tack. I never heard the captain of the Fisher say his vessel was weak, or was hump-backed; he always represented her as a good and substantial vessel; the sails of the Fisher were tanned; the Fisher was steering S. W. to S. S. W. at the time of the collision; I think I saw a vessel all of three miles to the southward of us that night, and she had no light; I saw no sailing vessels that night with lights.

Re-examined in chief.

I should judge the schooner Fisher was about three miles from shore at the time of the collision, and heading to the western shore; there was plenty of channel to clear the Fisher on either side.

JOHN W. PHILLIPS.

October 25, 1856.

Davis Fenton, a witness for Isaac Fisher and others, against the Steamer Louisiana.

I follow the water as my business; have done so for twenty years and upwards; I knew the schooner George D. Fisher; I went aboard of her sometime as mate; I remember her being run into by the steamer Louisiana; I was on board of her as mate then; this took place in the Chesapeake bay; it was on the night of the 27th of December last, between ten and eleven o'clock; it was a clear moonlight night; the moon rose about half-past eight o'clock; it had been up about two hours at the time; I noticed vessels all round the bay; I suppose from four to five miles off; I saw the steamer before the collision; when I first saw her, I should judge she was three miles off; when I first saw her, she bore from the schooner south, a little to the eastward of south; she was bound up the bay; her course, I should think, was north from where she was; the wind was about south; it was about a three knot breeze; the schooner was bound down the bay, tacking to the westward at the time; at the time of the collision the schooner was heading about S. W., heading towards the western shore of the bay; she had been on that tack half an hour, I think; the captain of the schooner, Mr. Fenton, was at the wheel at the time; when the steamer first hove in sight, I was below in the cabin; when I came on deck I saw her; she was about three miles off when I came on deck; when I came on deck I stood upon the larboard side of the schooner; there was nothing to obstruct my view of the steamer as she came up; the

captain called me on deck; from the time I came on deck, till the collision, she was pretty much in sight all the time; she would have been in sight all the time, if I had looked at her all the time; there was nothing to obstruct the view from when she first hove in sight; I watched the steamer, but not all the time; the reason why we watched the steamer was, the schooner was very near in a line of what would be her course up the bay, we judged; if she had run a north course up, as we calculated was her course, she would have passed us to the eastward.

After the steamer got up withinside of a mile as we judged, I saw that she was sheering to the westward. I concluded then that she was going to windward of us round our bows; after she run up I suppose within about a quarter of a mile of us, she then was up to windward of us; then she commenced sheering to the eastward; I then thought she was going to try to go under our stern to the eastward of us; when she came within about fifty yards of us Captain Fenton hailed her; he said where are you coming; there was a reply made; but I could not tell what it was; I was satisfied then she must run into us, for she could not go round; I was satisfied of that. At the time she was hailed I do not think she had stopped her engine; I am satisfied her wheels were not stopped. I had heard no bell ring up to that time; the steamer then run into the schooner, struck her between the main rigging and the house. I was knocked overboard. The collision of the steamer knocked the vessel from under me; I was standing on the side towards the steamer; I fell about ten feet from the schooner in the water; the cause of my falling so far from the schooner was the force of the steamer coming against her, and striking her in the position in which she was struck. The boom might have hit me and knocked me overboard, but I think it did not hit me. When I fell into the water I noticed that her wheels were still; I think I was ten or fifteen feet forward of the wheels before they commenced backing; I went down, was drawn under water by the wheels and covered up.

From the time I came on deck till the collision took place the schooner did not alter her course at all; there were four persons all told on board the schooner, the captain, mate, cook, and a lad before the mast between eighteen and twenty-one years of age; I don't know what have become of the two hands, the cook and the boy. The schooner was loaded with Richmond coal; she had on eighty-seven tons; I don't distinctly remember what the freight was; I think it was eighty-seven cents a ton. The captain had furniture aboard; I should judge it was worth forty or fifty dollars; there was bedding and clothing on board, which belonged to the captain as far as I know, I should think it was worth thirty-five or forty dollars; the captain had a gun on board which was worth twenty to twenty-five dollars; there was a large stock of provisions on board belonging to the captain, which was worth thirty-five to forty dollars so far as I know; I don't pretend to know much about it. Nothing was saved from the schooner; I think

the captain's whole loss was upwards of two hundred dollars; I could not make a fair estimate either way of the value of the things lost.

Up to the time of the collision I had been in the schooner about six weeks; I had known her two or three years before then; I do not know what she cost; she was a fore-and-aft schooner; she was well fitted out with every thing; I considered that she was extra fitted out for that class of vessels; she was well found, she had spare rigging aboard; I considered her an extra vessel of that class. She had the appearance of a new vessel; she carried one hundred and forty-five tons, I believe. At the time I was called on deck, I had been below half or three quarters of an hour; I think about the time I went below, I saw sailing vessels in all directions in the bay; there was nothing in the tide nor the wind, nor course of the schooner, to prevent the steamer going on the one side or the other of the schooner as they pleased; we could see the schooner Roanoke very distinctly.

Cross-examined.

We thought it was ebb tide, nearly first flood; we could not tell the tide very well; ebb tide runs down the bay. The schooner was steering S. W., at the time she was in a line nearly with what would have been the steamer's course, if the steamer was steering north. I have no idea of the time that elapsed between my coming on deck and the collision; I can form no correct estimate of the time; I think the engine had stopped at the time of collision, for when I went over, before I struck the water, I saw that the wheels were stopped; while I was in the air before I struck the water, I saw that the wheels were stopped. I can't tell exactly how far I was from the wheels when I first struck the water; when I struck the water I was forward of the wheels; while I was in the water the wheels commenced backing; I was within ten or fifteen feet of them when they commenced backing; the backing of the wheels covered me right up with water; I was not drawn under the wheels at all; I was not agitated at all; I should judge when I was covered up I was ten or fifteen feet from the wheels; I was right under the steamer's guard, and direct in front of the wheels; the guard was over my head; I was saved by some one throwing a couple of stools from the after gangway to me, while I was abreast the after-part of the wheel-house; while I was supporting myself by the stools, a boat came out and picked me up. There was a white man and a colored man in the boat; I did not *not* know either of them; after I got outside of the wheel it was not backing; it stopped before I came to the top of the water; it was stopped when I came up and first saw it; the backing of the wheel drove me outside of it.

There was nothing thrown to me that I saw while I was in front of the wheel. I was treated kindly after I got on board of the boat. We had no light displayed on the schooner that night.

Question. Do you know what the captain had on board the schooner?

Answer. I could not enumerate them all, I can name some articles. He had a spy-glass, chart, coasting pilot, gun, bedding and wearing apparel, pretty much all he had, and provisions.

Question. Did you not say on your examination before the district court at Baltimore, that you could not pretend to say what the captain had on board?

Answer. I don't think I said so; I might have said I could not enumerate them all, as I say now; I don't know who the schooner's cargo belonged to.

That night, I should think, the schooner's waist was three feet out of water; when the collision took place we were making about three knots an hour; I should think we were from three to four miles from shore when the collision took place.

The Rappahannock light-boat bore about south from us at the time; I don't know that I could make an estimate of the value of the schooner; I judge the steamer, when I first saw her, was steering north; I don't know.

Re-examined in chief.

We did not think it required us to carry lights a moonlight night; I think we could have seen the steamer changing her course, if she had had no lights; we would not have seen it quite so quick; there was nothing between us and the shore to the west to obstruct our view.

The schooner sunk immediately after she was struck; I was engaged in no other duty except watching the steamer, and attending to my own vessel, from the time I came on deck till the collision; I was not doing anything to draw my attention from watching the steamer.

Again Cross-examined.

I did not take particular notice whether there were northern lights that night or not; I thought there was some little light at the northward; I did not take notice if it was northern light.

DAVIS FENTON.

Deposition of John Brown, witness for Isaac Fisher and others, against the Steamer Louisiana.

I was in the employ of Hatfield and McCoy at the time of fitting out the schooner George D. Fisher; I was a rigger; as far as my recollection goes, it was about two years before the last Presidential campaign; I put in the spars and fitted the rigging complete; I superintended and directed all the work in relation to it; the work and materials were of the best character, and I put good work on; I believe that fourteen hundred and fifty dollars would be none too much to estimate the cost of spars, rigging, boats and anchors, and all attached to a boat after she is built; I have made an estimate of it; after that time I continued to work as a rigger until within three years; during that time the schooner was kept in excellent order.

Cross-examined.

I put the rigging on the schooner in the month of February, in the year 1850; I made the estimate last evening at home; I was not directed to make it; Mr. McCoy called on me yesterday, and asked me if I would give him what I thought was a correct estimate what the outfit was worth; I told Mr. McCoy that I would make one; I have seen the schooner since. In September, 1853, was the last time I worked on board of her; in 1853 I think her rigging was worth one quarter less than in 1850; I cannot form any correct idea of what her rigging was worth in 1855.

I should judge that the rigging did deteriorate as much as one fourth in two or three years; my occupation now is bookkeeping; I cannot tell whether the running rigging had been renewed; when I last saw her all her rigging was in excellent order.

JOHN E. BROWN.

Notice.

CLAIMANTS OF THE STEAMER LOUISIANA
vs.
FISHER and others.

WM. SCHLEY and WM. K. FALLS, esq's,
Proctors for Appellants.

GENTLEMEN: Please take notice, that on Saturday next, Nov. 8th, we shall take further testimony in this case at the office of G. A. Vroom, esq., U. S. Com'r, New Brunswick, New Jersey, at 10 a. m.
Nov. 3d, 1856.

WM. PRICE,
S. T. WALLIS,
Proctors for Appellees.

Service admitted. Nov. 4, 1856.

WM. SCHLEY,
For Appellants.

Deposition of Elias Ross, witness for the Appellees, taken before George A. Vroom, esq., U. S. Com'r, at the city of New Brunswick, New Jersey, on the 8th November, 1856.

I am fifty-six years old; I reside in the city of New Brunswick; I have lived in this place since the year 1825 till within about two years; I sailed a vessel for thirty years and more; I have been master of a vessel over thirty years; I have been coasting some, not much; my business was principally in the rivers and bays, and through the canal; during part of this time I have been captain as well as owner; I have owned vessels ever since 1823; I have sometimes one, sometimes two, and sometimes three, I own part of two now; I have had several vessels built, five new ones I think; vessels principally for our canals and rivers, one I built for coasting, and I now own one that has always until this

season followed coasting; this year her sails are poor, and I run her inside; I do not consider myself a rigger, but I know when a vessel is properly rigged; my vessels are all rigged under my supervision; I used to know the schooner George D. Fisher; I have built and rigged two vessels pretty nearly like her, about the same class of vessels; mine were a little larger than the Fisher, and rigged I think the year before the Fisher was; they were schooner rigged for the canal business; they were calculated for about the same trade the Fisher was; I recollect the fact, the George Fisher was rigged; I think she was well rigged, well fitted up; Capt'n Campbell is a particular man about having things in proper order; and Capt'n Isaac Fisher is an old boatsman, and I have always found him a particular man about having his boats in order; while she was being rigged I was in the yard once in while and saw how things were going on, and from my observation I think she was very well rigged for that trade; she was fitted up for canal buiness very well.

I am acquainted with Capt'n Campbell, Isaac Fisher, L. Fisher and Mr. McCoy, who are the owners of the Fisher, as I have heard.

While Capt'n Campbell was in her, I use frequently to be aboard of the Fisher, and I always saw that he kept everything about his vessel, the rigging and hull, in good order, very good order.

Question. What would be the fair expense and cost of fully rigging and equipping a vessel of that size and class in the manner in which the George D. Fisher was rigged and equipped?

Answer. I do not know what to say about it, but should suppose from fourteen hundred to two thousand dollars; I should suppose some could be rigged in a cheap manner for fourteen hundred dollars; I do not think I could say whether the Fisher's rigging and equipment was worth fourteen hundred or two thousand dollars; I was there frequently and saw her, but I would not like now to put any precise estimate on the cost of her rigging and equipment.

Cross-examined.

I knew the schooner George D. Fisher; she was called the Harrisburgh; she ran here perhaps two or three years before she was rebuilt; I never owned her.

Question. How much was the Harrisburgh worth when she was hauled up to be rebuilt?

Answer. I cannot tell; I would not be willing to give but very little for her, because they generally cost more to rebuild as to build a vessel new, in my opinion.

Question. When did you last see the Fisher?

Answer. I don't remember seeing her after she was hauled upon Hoagland's ways; I can't tell when she was hauled up on Hoagland's ways; I think it was in the summer of 1855.

I cannot give an estimate of the value of the Fisher; the last time I saw her, I did not take particular notice of her, and don't know what order she was in.

Question. Did any one ever tell you the Fisher hogged or twisted?

[The question objected to as being too general, and being hearsay.]

Answer. I recollect that one time the water in the canal was drawn off, and several vessels left there aground, and among them the Fisher; then I heard somebody say she got strained some; I mean by strained that she leaked some; I think I heard that she leaked pretty bad; after that she was hauled up on Hoagland's ways, and I asked him what she hauled up for; he said she had been strained while lying in the canal, she had hauled up to repair her; he was going put in some kelsons and braces to stiffen her up; Hoagland said he had repaired the Fisher; this he told me afterwards.

Question. Was the Fisher a fit vessel, in your opinion, to navigate the Chesapeake bay?

Answer. I was never in the Chesapeake bay in my life, and don't know anything about the bay; and cannot say whether she was fit or not.

ELIAS ROSS.

Deposition of James F. Phillips, witness for the appellees, taken before John Hanan, esq., U. S. Com'r for Maryland, at the city of Baltimore, 15 *Novem'r*, 1856.

I am a coaster by profession; I have been master of a vessel between 28 and 30 years; on the night of the 27th of December, 1855, I was on board the schooner Roanoke, about three quarters of a mile in the wake of the schooner George D. Fisher at the time of the collision, between that vessel and the steamer Louisiana; I was steering exactly in the schooner's wake; it was a moonlight night, no cloud to be seen at that time in the horizon, as I remember; a vessel could be seen up the bay from three to four miles; there was a northern light that night, and the moon was well to the southward, throwing the light more on the vessel's sails up the bay than down; could see down the bay vessels without lights from a mile to a mile and a half; we had no light set that night; I saw none on the schooner George D. Fisher; an hour or an hour and a half after the collision, I saw a large schooner with lights coming up the bay before the wind, by that time some light clouds would occasionally pass over the moon; that was the only sailing vessel I saw with lights that night; after and before the collision a number of vessels went up the bay before the wind without lights; I saw no vessel but the George D. Fisher and my vessel beating down that night; the collision, by my clock, took place I think about eleven o'clock; there was a very moderate wind at the time of the collision, blowing from south to south-southwest; the George D. Fisher, at the time of the collision, was heading in shore about southwest by west; the wind veered and hauled two or three points from time to time; there was about a three knot breeze; I was standing right after the George D. Fisher, on the same course; the reason I did so was, I was not acquainted with the bay, and I was following Capt'n Fenton down; at the time the steamer struck her I was in my cabin, had been there

probably five minutes; had not seen the steamer's lights before I went down; my mate, John W. Phillips, had the helm of the Roanoke; I went into the cabin to warm myself, and the first I heard was the steamer blowing off steam; I then came on deck, and said to the man at the wheel, "How are you coming with the steamboat?" he said I am coming all right, going between her lights. I took another look at the steamer, and said to him, Put your wheel down and go about; the steamer has stopped. As he put his wheel down to go about, I said to him she has run the George D. Fisher down; when I got put about I could not have been over a quarter of a mile from the Fisher; I saw the Fisher's yawl-boat drifting off, and as the steamer backed off of her I could see the tops of her sails.

I don't know how long I had been standing on the tack I was on before I went about; I had been standing westward, may be, for half an hour, and may be not so much; as the sails of the Fisher lay that night after the collision, I should judge she was heading from west-southwest to southwest by west; I should suppose she went right down after the collision; the heads of her sails were out of water some five or six feet. She was sunk in the open bay, some three or four miles from land, I should suppose; she had coal on board; I knew, at the time of her loading, exactly how much she had on board, but I cannot now remember whether it was 75 or 80 tons; she was bound to Norfolk from Port Richmond, near Philadelphia; the freight for that voyage was 87½ cents per ton; I had a load on board my own vessel at the same rate; both loads were consigned to Kemp & Bronsol, of Norfolk; I don't think the Fisher could have been got up at that season of the year; it would have been a difficult job to have done it in summer; she was in so deep water, and the wind would blow so fresh, you could not lay by her easily to get chains under her; I don't suppose she could have been got up for the value of her. I became acquainted with Capt. Fenton in the fall before we came out, about the middle of October; I became acquainted with him on board his vessel, and known him since that time; I had been on board of her, a good deal, prior to the collision; she was a vessel well found for rigging and sails; I think the spars and rigging, and sails, would cost from twelve to fifteen hundred dollars. There had been no change in the Fisher's course a short time before the collision; we were steering directly after her, and there was no change in either of the vessels, except that which was rendered necessary by the veering of the wind; we had both been, in the neighborhood of half an hour, on the same tack, prior to the collision; the night was so clear that I had no fear of a steamboat, and we could see sail vessels at such a distance, that there was no chance of a collision with them, any more than in the daytime; I should suppose that the collision must have taken place for want of sufficient look-out on board the steamer; if they had had a sufficient look-out, they could not have failed to have seen the schooner, and avoided the collision; she was furnished like all small vessels; had beds and stools; had as good and decent cabin furniture as any small

vessel; she had a galley on deck, with a cooking-stove in it; don't know, of my own knowledge, of any private property of Capt'n Fenton on board, except his clothes; we bought our provisions together at one store in Philadelphia, and our bills was fifty dollars; I should calculate that the furniture on board the Fisher was worth from 75 to 100 dollars, but it was worth more to the vessel than to any boby else.

JAMES F. PHILLIPS.

Decree.

In the Circuit Court of the United States for the fourth Circuit and District of Maryland.

CLAIMANT'S OF THE STEAMER LOUISIANA
vs.
ISAAC FISHER and others.

Appeal from the District Court—In Admiralty.

This cause standing ready for hearing, and having been argued, and the argument, proceedings, and proofs having been heard, read, and considered; it is, thereupon, this twenty-first day of November, 1856, by this court, and the authority thereof, adjudged, ordered, and decreed, that the decree of the district in the premises be, and the same is hereby, affirmed with costs.

R. B. TANEY.

Decree on Cross Appeal.

In the Circuit Court of the United States for the fourth Circuit and District of Maryland.

ISAAC FISHER and others
vs.
THE STEAMER LOUISIANA.

Appeal from the District Court—In Admiralty.

This cause standing for hearing, and having been argued, and the arguments, proceedings, and proofs having been heard, read, and considered; it is, thereupon, this twenty-first day of November, 1856, by this court and the authority thereof, adjudged, ordered, and decreed, that the decree of the district court in the premises be, and the same is hereby, affirmed with costs.

R. B. TANEY.

From which said decrees, so as aforesaid passed, the said claimants and owners of the steamer Louisiana, by their proctors, in open court here prayed an appeal to the Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next, and to them it is granted.

Thereupon it is ordered by the court here, that the record and proceedings aforesaid, with all things relating to the same, be transmitted

to the said Supreme Court, and the same are hereby transmitted accordingly.

Appeal Bond.

Know all men by these presents, that we, the Baltimore Steam-packet Company, M. N. Falls, James McKonkey, Thomas Kelso, and George R. Vickers, are held and firmly bound unto Isaac Fisher, Jonathan Campbell, and Lawrence Fisher, of New Jersey, and Robert M. Fenton, of Pennsylvania, and George D. McCoy, of New Jersey, in the just and full sum of six thousand two hundred dollars lawful money of the United States, to be paid to the said Isaac Fisher, Jonathan Campbell, Lawrence Fisher, Herbert M. Fenton, and George D. McCoy, their heirs, executors, administrators, or assigns; to which payment, well and truly to be made and done, we hereby bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this twenty-seventh day of November, in the year of our Lord one thousand eight hundred and fifty-six.

Whereas at a district court of the United States in and for the Maryland district, begun and held at the city of Baltimore on the first Tuesday in June, in the year of our Lord one thousand eight hundred and fifty-six, the said Isaac Fisher, Jonathan Campbell, Lawrence Fisher, Herbert M. Fenton, and George D. McCoy, by the decree of the same court, recovered against the said steamer Louisiana, her tackle, apparel and furniture, her boats, engine, and machinery, and against Moore N. Falls and Samuel Shoemaker, stipulators in behalf of the said steamer, the sum of three thousand one hundred dollars, for their damages occasioned by the collision, in the proceedings in this cause complained of, together with their costs. From which said decree so as aforesaid passed, the Baltimore Steam-packet Company, claimants and owners of the said steamer, and the said stipulators, by their proctors, in open court, prayed an appeal to the circuit court of the United States for the fourth circuit in and for the Maryland district, to be held at the city of Baltimore on the first Monday in November then next:

And whereas also, at a circuit court of the United States for the fourth circuit in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in November, in the year of our Lord one thousand eight hundred and fifty-six: It was adjudged, ordered, and decreed by the said circuit court, that the decree in the district court in the premises be, and the same is hereby, affirmed with costs. From which said decree the said claimants and owners of the said steamer Louisiana, and stipulators, by their proctors, have prayed an appeal to the Supreme Court of the United States, to be held at the city of Washington, on the first Monday in December next:

Now, the condition of the above obligation is such, that if the said claimants and owners of the said steamer Louisiana, and the said stipulators, shall well and truly prosecute with effect their said appeal, and pay unto the said Isaac Fisher, Jonathan Campbell, Lawrence

Fisher, Herbert M. Fenton, and George D. McCoy, their heirs, executors, administrators, or assigns, the amount decreed unto them by the said district and circuit courts; and also all such damages, costs, and charges as may be awarded unto them by the said Supreme Court, in case they the said appellants shall fail to make good their said appeal, then the above obligation to be void and of none effect, otherwise to be and remain in full force and virtue in law.

Baltimore Steam-Packet Company,
M. N. FALLS, [SEAL.]
JOS. McCONKEY,
TH. KELSO,
G. R. VICKERS.

Signed, sealed, and delivered in presence of—
WM. K. FALLS,
W. BALL.

Approved by

R. B. TANEY.

November 27th, 1856.

In testimony that the aforegoing is a true copy taken from the record and proceedings of the circuit court aforesaid, I hereunto subscribe my name, and affix the seal of the said circuit court, this ninth day of January, in the year of our Lord one thousand eight hundred and fifty-seven.

[L. S.]

THO. SPICER, *Clerk Circ't Ct.*

THE OWNERS AND CLAIMANTS OF THE STEAMER LOUISIANA, (on appeal,)
vs.
ISAAC FISHER & others.

Interrogatories.

It is hereby agreed, that the testimony of witnesses to be examined on the within interrogatories and cross-interrogatories may be taken by George A. Vroom, esquire, U. S. commissioner, at New Brunswick, N. Jersey, to be used, if admissible, in the Supreme Court of the United States, on appeal, subject to all exceptions, save as to the mode of taking the same.

Jan'y 31st, 1857.

WM. PRICE,
S. T. WALLIS, *for Libellants,*
WM. SCHLEY,
For Owners & Claimants of Steamer Louisiana.

THE OWNERS & CLAIMANTS OF THE STEAMER LOUISIANA & others
vs.
ISAAC FISHER & others.

On appeal to the Supreme Court of the United States from the circuit court for the Maryland district.—In admiralty.

Interrogatories on the part of Fisher and others to be propounded to witnesses in New Brunswick, New Jersey.

1. What is your name and age?

2. Were you or not on board the schooner George D. Fisher on the night of December 27th, 1856, when a collision took place between said schooner and the steamer Louisiana? If you were, state in what capacity.

3. Did you see the said steamer approaching, or did you not, before the happening of said collision? If you did, state how far off the steamer was when you first saw her; what first called your attention to her; where you were when you first saw her, and in what you were occupied from that time down to the time of the collision.

4. What was the character of the night; was it light or dark, starlight or moonlight? How far might sail-vessels without lights have been seen that night? How far did you see sail-vessels that night without lights, if in fact you did so see any?

5. What was the state of the weather from the time you first saw the steamer until the collision? How much wind was blowing, and from what quarter? What was the course of the schooner?

6. Was there any change of course on the part of the schooner from the time you first saw her until the time of the collision? If there was, please state what such change was, and when it took place.

7. Was there any change of course on the part of the steamer from

the time when you first saw her to the time of the collision? If there was, please state what such change was, and when it was made; and what was the consequence thereof; and how far off was the steamer at the time of such change.

8. State if you please what was in your opinion, founded on what you saw, the cause of said collision. Could or could not those on board the schooner have avoided it?

9. Did the steamer back her engines or stop before the collision? If yea, how far off was she when she began to do so?

10. If there be any other matter or thing favorable to the owners of the schooner in this controversy which you have not already stated in answer to these interrogatories, please state the same as fully as if you were specially interrogated in regard thereto.

WILLIAM PRICE,
S. T. WALLIS,
Proctors for the Libellants, Appellees.

UNITED STATES OF AMERICA,
District of New Jersey, to wit:

I, George A. Vroom, a commissioner appointed by the circuit court of the United States for the third circuit and district of New Jersey, pursuant to the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," do hereby certify, that on the 3d day of April, A. D. 1857, at my office, in the city of New Brunswick, within the district of New Jersey, personally appeared before me Herbert M. Fenton, a witness for Isaac Fisher and others in a certain cause depending in the Supreme Court of the United States, on appeal from the circuit court for the Maryland district, between "the owners and claimants of the steamer Louisiana and others, claimants, and Isaac Fisher and others," and the said Herbert M. Fenton was then and there by me duly examined according to law upon the interrogatories hereunto annexed, no cross-interrogatories having been propounded.

And the said Herbert M. Fenton being by me first carefully examined and cautioned, and duly sworn according to law to testify the whole truth, and being examined on behalf of Isaac Fisher and others, makes oath, deposeth and saith as follows, to wit, in answer to the interrogatories following:

First. What is your name and age?

Answer. My name is Herbert M. Fenton; I am thirty-two years of age.

Second. Were you or not on board the schooner George D. Fisher on the night of December 27th, 1856, when a collision took place between said schooner and the steamer Louisiana? If you were, state in what capacity.

Answer. I was on board the schooner George D. Fisher on the night when the collision between her and the steamer Louisiana took place, which was on the night of the 27th of December, 1855, not 1856, as stated in the question; I was master of said schooner.

Third. Did you see the said steamer approaching, or did you not, before the happening of said collision? If you did, state how far off the steamer was when you first saw her; what first called your attention to her; were you where when you first saw her; and in what you were occupied from that time down to the time of the collision.

Answer. I did see the said steamer approaching before the collision happened; I judge she was eight or ten miles distant when I first saw her. I was at the wheel when I first saw her, and while I was so occupied at the wheel I made her light; I remained at the wheel from the time I first saw the steamer until the collision happened.

Fourth. What was the character of the night; was it light or dark, starlight or moonlight? How far might sail-vessels without light have been seen that night? How far did you see sail-vessels that night without lights, if in fact you did see any?

Answer. The night was moonlight; it was a clear night, with the exception of a small bank to the northward and westward. Sail-vessels without light might have been seen that night four miles off. That night I saw several sail-vessels going up the bay without lights, I judge from two to four miles off.

Fifth. What was the state of the weather from the time you first saw the steamer until the collision? How much wind was blowing, and from what quarter? What was the course of the schooner?

Answer. The weather was clear from the time we first saw the steamer until the collision; the wind was blowing about a three-knot breeze, and was variable from south to south-southeast. The schooner was making a southwest course; she would head from southwest to southwest by south.

Sixth. Was there any change of course on the part of the schooner from *you* time you first saw her until the time of the collision? If there was, please state what such change was, and when it took place.

Answer. There was no change of the course of the schooner from the time I first saw the steamer until the collision took place; the schooner was close*d*-hauled upon the wind all the time.

Seventh. Was there any change of course on the part of the steamer from the time when you first saw her to the time of the collision? If there was, state what such change was, and when it was made, and what was the consequence thereof; and how far off was the steamer at the time of such change.

Answer. When the steamer was about a mile and a half off I could see by her lights that she had hauled to the westward, apparently to cross our bows. When about three-fourths of a mile off I could *she* that she shifted her course then and hauled to the eastward, bearing right down on us. The consequence of the change made by the steamer in her course caused the collision; I mean that the change in her course, hauling to the eastward, caused the collision.

Eighth. State if you please what was, in your opinion, founded on what you saw, the cause of said collision. Could or could not those on board the schooner have avoided it?